

DEPARTMENT OF SOCIAL SERVICES

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916/445-9124



November 14, 1984

ALL COUNTY LETTER NO. 84-113

TO: All County Welfare Departments  
All Public and Private Adoption Agencies  
All SDSS Adoption District Offices

SUBJECT: Assembly Bill 2832 (Chapter 1116, Statutes of 1984)

Assembly Bill 2832, (Chapter 1116, Statutes of 1984), was signed into law by the Governor on September 13, 1984. This bill amends several sections of the Civil Code and the Welfare and Institutions Code. Attached is a copy of the chaptered bill for your information. The major provisions of the bill are as follows:

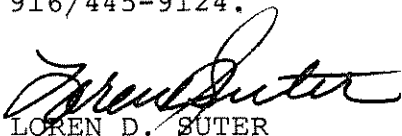
1. Provides a statutory base for the Intercountry Adoptions (ICA) Program.
2. Requires the Department of Social Services (DSS) to develop regulations to administer the ICA Program. The Department of Social Services is in the process of developing emergency regulations and it is expected that they will be available to agencies in January 1985.
3. Places all legal and financial responsibility for the child prior to the finalization of the adoption in the State with the private adoption agency as if the child had been relinquished to that agency, unless the prospective adoptive parents have received full guardianship from the child's native country.
4. If the prospective adoptive parents have been granted full guardianship from the child's native country, places all legal and financial responsibility for the child on the prospective adoptive parents.
5. Terminates the involvement of public adoption agencies and utilization of public funds in the provision of direct intercountry adoption services. This includes the coordination of the arrival of children from a foreign country. As of November 1, 1984, the DSS, Adoptions Branch will no longer provide this service. After October 31, 1984, each private agency will be responsible for coordinating the arrival of the children.

6. Provides for a transition period for the intercountry adoption caseload currently being processed by public agencies. Public agencies shall complete only those cases meeting the following criteria:
  - a. An approved home study has been transmitted to a foreign agency for child matching.
  - b. The prospective parents have paid a fee for intercountry adoption services.
  - c. The application for a family assessment has been signed by the applicants and the assessment process started on or before September 13, 1984.

NOTE: Families who have only submitted Preliminary Information forms and/or have had a screening interview but have not submitted a signed application for assessment, do not meet this criteria and should be referred to the nearest private agency providing intercountry adoption services.

7. Specifies the duties and responsibilities of the private adoption agency for both intercountry adoptions finalized in the State and those finalized in a foreign country.
8. Requires, so far as ascertainable, written background information on both the child and its birth parents. The prospective parents must acknowledge in writing the receipt of this information.
9. Prospective parents shall file the petition to adopt the child within 30 days of its placement.
10. Requires the private adoption agency to investigate the adoption and submit to the court a full report of the facts disclosed by its investigation with a recommendation regarding the granting of the petition within 180 days after filing the petition.
11. Agencies may enter into an agreement with the prospective parents to share or transfer financial responsibility for the child.
12. Provides for agreements between California agencies and other domestic and foreign adoption agencies provided the agreements do not violate State adoption laws or Department regulations.

If you have any questions on the implementation of Chapter 1116, please feel free to contact Mr. Tom Burke at the above address or at 916/445-9124.



LOREN D. SUTER  
Deputy Director  
Adult and Family Services Division

Attachment  
cc: CWDA

(3)

Assembly Bill No. 2832

CHAPTER 1116

An act to amend Sections 224s, 226, 226b, 226c, 226.3, 226.4, 226.6, 226.7 and 226.8 of the Civil Code, to amend Sections 16100, 16122, and 16140 of, to add Sections 16142.1, 16143, 16143.1, 16143.2, 16144, 16145, and 16146 to, and to repeal and add Sections 16141 and 16142 of, the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1984. Filed with  
Secretary of State September 13, 1984.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2832, Leonard. Public social services: intercountry adoptions.

Under existing law, the State Department of Social Services licenses county adoption agencies, establishes services incident to adoption in counties which do not have a county adoption agency, administers a program for hard-to-place adoptive children, and provides certain services with respect to intercountry adoptions.

This bill would enact provisions relating to the Intercountry Adoption Program. It would require the department to establish and administer an Intercountry Adoption Program to be carried out by private adoption agencies licensed to perform intercountry adoptions. Investigations done under existing law by the department would be required to be done, under this bill, by the private adoption agency. It would prohibit county adoption agencies from providing intercountry adoption services, and would prohibit adoption assistance program benefits from being paid on behalf of a child adopted through the Intercountry Adoption Program. It would also prohibit reimbursement to a private agency for intercountry adoption services. This bill would specify the duties and responsibilities of a private adoption agency with respect to intercountry adoptions.

Under existing law, the department is required to submit an annual report to the Legislature regarding the number of approved homes waiting for the placement of an intercountry child.

This bill would repeal that provision.

This bill would take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 224s of the Civil Code is amended to read:

224s. (a) No agency shall place a child for adoption unless a written medical report on the child's medical background, and if available, so far as ascertainable, the medical background of the child's birth parents, has been submitted to the prospective adopting

parents and the prospective adoptive parents have acknowledged in writing the receipt of such report.

The report on the child's background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history and family life.

In cases of adoption in which no agency licensed to place children for adoption is a party the report shall be made by the State Department of Social Services or delegated county agency as part of the study required by Section 226.2. The report shall be submitted to the prospective adopting parents who shall acknowledge its receipt in writing.

(b) The State Department of Social Services shall adopt regulations specifying the form and content of the report required by this section. In addition to any other material that may be required by the department, the form shall include inquiries designed to elicit information on any illness, disease, or defect of a genetic or hereditary nature. All licensed adoption agencies shall cooperate with and assist the department in devising a plan that will effectuate the effective and discreet transmission to adoptees or adoptive parents of pertinent medical information reported to the department or the licensed agency, upon the request of the person reporting the medical information.

(c) The requirements of this section shall not apply to stepparent adoptions.

SEC. 1.5. Section 226 of the Civil Code is amended to read:

226. Any person desiring to adopt a child may for that purpose petition the superior court of the county in which the petitioner resides and the clerk of the court shall immediately notify the State Department of Social Services at Sacramento in writing of the pendency of the action, of any subsequent action taken, and of the date on which an interlocutory decree has become a final decree of adoption. The notification shall not be required where the petition is by a stepparent, where one natural or adoptive parent retains his or her custody and control of the child. In all cases in which consent is required, except in the case of an adoption by a stepparent where one natural or adoptive parent retains his or her custody and control of the child, unless an agency licensed by the State Department of Social Services to find homes for children and place children in homes for adoption joins in the petition for adoption, the petition shall contain an allegation that the petitioners will file promptly with the department, the county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, information required by the department in the investigation of the proposed adoption. The omission of the allegation from a petition so filed shall not, however, affect the jurisdiction of the court to proceed, nor shall it have

heretofore affected the jurisdiction of any court to have proceeded, upon the petition omitting the allegation, in any manner provided in this chapter or otherwise, nor shall the omission have affected or affect the validity of any decree of adoption or other order heretofore or hereafter made by any court with respect to a petition omitting the allegation.

The caption of the petition for adoption of a minor shall contain the name or names of the petitioners but shall not contain the name of the minor. The petition shall contain the sex and date of birth of the minor. The name that the minor had prior to adoption shall appear in the petition or, in the case where a licensed adoption agency joins in the petition, the name may appear in the joinder signed by the adoption agency. The decree of adoption shall contain the adopted name of the minor but shall not contain the name that the minor had prior to adoption.

SEC. 2. Section 226b of the Civil Code is amended to read:

226b. Whenever, in any adoption proceeding, the petitioners desire to withdraw the petition for the adoption or to dismiss the proceeding, the clerk of the court in which the proceeding is pending shall immediately notify the State Department of Social Services of such action. The State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, shall file a full report with the court recommending a suitable plan for the child in every such case where the petitioners desire to withdraw the petition for the adoption or where the department, the county agency, or licensed private adoption agency recommends that the petition for adoption be denied and shall appear before the court for the purpose of representing the child. Notwithstanding such withdrawal or dismissal by the petitioners, the court may retain jurisdiction over the child for the purpose of making such order or orders for its custody as the court may deem to be in the best interests of the child.

In any adoption proceeding in which the parent has refused to give the required consent or in which the reason or cause for the withdrawal of the petition or dismissal of the proceeding is the withdrawal of the consent of the natural parent or parents, the court shall order at the hearing the child restored to the care and custody of the natural parent.

SEC. 3. Section 226c of the Civil Code is amended to read:

226c. At the hearing, if the court sustains the recommendation that the child be removed from the home of petitioners because the agency has recommended denial or the petitioners desire to withdraw the petition or the court dismisses the petition and does not return him to his parents, the court shall commit the child to the care of the State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption

services, whichever agency made the recommendation, for that agency to arrange adoptive placement or to make a suitable plan. In those counties not covered by a licensed county adoption agency, the county welfare department shall act as the agent of the State Department of Social Services and shall provide care for the child in accordance with rules and regulations established by the department.

SEC. 4. Section 226.3 of the Civil Code is amended to read:

226.3. In all cases in which the consent of the natural parent or parents is not necessary and an agency licensed to place children for adoption is not a party to the petition, the State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, shall, prior to the hearing of the petition, file its consent to the adoption with the clerk of the superior court of the county in which the petition is filed. Such consent shall not be given unless the child's welfare will be promoted by the adoption.

SEC. 5. Section 226.4 of the Civil Code is amended to read:

226.4. If for a period of 180 days from the date of filing the petition, or upon the expiration of any extension of the period granted by the court, the State Department of Social Services, the licensed county adoption agency or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, fails or refuses to accept the consent of the natural parent or parents to the adoption, or if the department or agency fails or refuses to file or to give its consent to an adoption in those cases where its consent is required by this chapter, either the natural parent or parents or the petitioner may appeal from the failure or refusal to the superior court of the county in which the petition is filed, in which event the clerk shall immediately notify the State Department of Social Services of the appeal and the department or agency shall within 10 days file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the natural parent. After the filing of the findings, the court may, if it deems that the welfare of the child will be promoted by said adoption, allow the signing of the consent by the natural parent or parents in open court, or if the appeal be from the refusal of the department or agency to consent thereto, grant the petition without the consent.

SEC. 6. Section 226.6 of the Civil Code is amended to read:

226.6. It shall be the duty of the State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, to investigate the proposed adoption and to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition. In those cases

in which the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption the report shall be filed immediately. The court may allow such additional time for the filing of said reports as in its discretion it may see fit, after at least five days' notice to the petitioner or petitioners and opportunity for such petitioner or petitioners to be heard with respect to the request for additional time. The report required of the State Department of Social Services or of the licensed county adoption agency may be waived by the department in all cases in which an agency, licensed by the State Department of Social Services to place children in homes for adoption, is a party or joins in the petition for adoption, or in an intercountry adoption in which the placement was made by a licensed private agency. Such waiver may be issued by the department at any time, either before or after the filing of the petition for adoption.

SEC. 7. Section 226.7 of the Civil Code is amended to read:

226.7. Whenever any report or findings are submitted to the court by the State Department of Social Services, or by a licensed county or private adoption agency under any provision of the preceding section, a copy of such report or findings, whether favorable or unfavorable, shall be given to the attorney for the petitioner in the proceedings, if the petitioner has an attorney of record, or to the petitioner.

SEC. 8. Section 226.8 of the Civil Code is amended to read:

226.8. If the findings of the State Department of Social Services or the licensed county or private adoption agency are that the home of the petitioners is not suitable for the child or that the required consents are not available and it recommends that the petition be denied, or if the petitioners desire to withdraw the petition, and it recommends that the petition be denied, the county clerk upon receipt of the report of the State Department of Social Services or the licensed county or private adoption agency shall immediately refer it to the superior court for review.

Upon receipt of such reports the court shall set a date for a hearing of the petition and shall give reasonable notice of such hearing to the agency, the petitioners, and the natural parents by certified mail to the address of each as shown in the proceeding.

The department or the county or private agency licensed to perform intercountry adoptions shall appear to represent the child.

SEC. 9. Section 16100 of the Welfare and Institutions Code is amended to read:

16100. Any county may apply for, and the department may issue pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code to any county agency designated by the county making the application, a license to perform the home-finding and placement functions, to investigate, examine, and make reports upon petitions for adoption filed in the superior court,

to act as a placement agency in the placement of children for adoption, to accept relinquishments for adoption, and to perform such other functions in connection with adoption as the department deems necessary, or to do any of them. Nothing in this section shall be construed to authorize licensed county adoption agencies to provide intercountry adoption services.

In order to extend the services of county adoption agencies to the maximum number of counties practicable within the limits of funds appropriated therefor, the department may license a county adoption agency to operate in such other counties in the general area of the agency as it deems conducive to the effective and efficient administration of the adoption program.

A license issued to a county agency pursuant to this section constitutes the holder thereof a "county adoption agency" and the holder shall be deemed to be an "organization" within the meaning of this code and of Chapter 2 (commencing with Section 221) of Title 2 of Part 3 of Division 1 of the Civil Code.

SEC. 10. Section 16122 of the Welfare and Institutions Code is amended to read:

16122. From any funds appropriated therefor, the state shall reimburse private adoption agencies licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code for costs of aid to adoption programs for hard-to-place children, less the amount of fees received by such agencies from adoptive parents. Such agencies shall be reimbursed for the placement of hard-to-place children in an amount not to exceed two thousand dollars (\$2,000) per placement. Nothing in this section shall be construed to authorize reimbursement to private agencies for intercountry adoption services.

SEC. 11. Section 16140 of the Welfare and Institutions Code is amended to read:

16140. For the purposes of this chapter "intercountry adoption" means the adoption of a foreign-born child for whom federal law makes a special immigration visa available. Intercountry adoption includes completion of the adoption in the child's native country or completion of the adoption in California.

SEC. 12. Section 16141 of the Welfare and Institutions Code is repealed.

SEC. 13. Section 16141 is added to the Welfare and Institutions Code, to read:

16141. The department shall adopt regulations to administer the intercountry adoption program to be carried out by private adoption agencies licensed to provide intercountry adoption services.

SEC. 14. Section 16142 of the Welfare and Institutions Code is repealed.

SEC. 15. Section 16142 is added to the Welfare and Institutions Code, to read:

16142. For those intercountry adoptions that will be finalized in



the state, the private adoption agency licensed to perform intercountry adoption services shall provide all of the following services:

- (a) Assessment of the suitability of the applicant's home.
- (b) Placement of the foreign-born child in an approved home.
- (c) Postplacement supervision.
- (d) Submission to the court of a report on the intercountry adoptive placement with a recommendation regarding the granting of the petition.
- (e) Services to applicants seeking to adopt related children living in foreign countries. The Legislature recognizes that these children have an impelling need for adoptive placement with their relatives.

SEC. 16. Section 16142.1 is added to the Welfare and Institutions Code, to read:

16142.1. For those adoptions that will be finalized in a foreign country, the private adoption agency licensed to perform intercountry adoption services shall provide all of the following services:

- (a) Assessment of the suitability of the applicant's home.
- (b) Certification to the Immigration and Naturalization Service that California's adoptive requirements have been met.

SEC. 17. Section 16143 is added to the Welfare and Institutions Code, to read:

16143. (a) For those intercountry adoptions finalized in the state, the private adoption agency licensed to perform intercountry adoption services shall assume all responsibilities for the child including care, custody, and control as if the child had been relinquished for adoption in California from the time the child leaves its native country.

(b) Notwithstanding subdivision (a), if the child's native country requires and has given full guardianship to the prospective adoptive parents, the prospective adoptive parents shall assume all responsibilities for the child including care, custody, control, and financial support.

(c) If the prospective adoptive parents or agency fail to meet its responsibility for the care, custody, control, and financial responsibility of the child and the child becomes a dependent of the court pursuant to Section 300, the state shall assume responsibility for the cost of care for the child. When the child becomes a dependent of the court and if, for any reason, is ineligible for AFDC under Section 14005.1 and loses Medi-Cal eligibility, the child shall be deemed eligible for Medi-Cal under Section 14005.4 and the Director of Health Services shall be given authority to provide payment for the medical services to the child which are necessary to meet the child's needs.

SEC. 18. Section 16143.1 is added to the Welfare and Institutions Code, to read:

16143.1. Nothing in this article shall be construed to prohibit the

licensed adoption agency from entering into an agreement with the prospective adoptive parents to share or transfer financial responsibility for the child.

SEC. 19. Section 16143.2 is added to the Welfare and Institutions Code, to read:

16143.2. The costs incurred by licensed adoption agencies pursuant to programs established by the act which added this section to the Welfare and Institutions Code shall be funded by fees charged by those agencies for services required by this chapter. The agency's fee schedule must be approved by the department initially, and whenever it is altered.

SEC. 20. Section 16144 is added to the Welfare and Institutions Code, to read:

16144. As a condition of placement, the prospective adoptive parents shall file a petition to adopt the child under Section 226 of the Civil Code within 30 days of placement.

SEC. 21. Section 16145 is added to the Welfare and Institutions Code, to read:

16145. To facilitate the adoption of foreign-born children, licensed private adoption agencies may enter into agreements with domestic and foreign adoption agencies, provided that these agreements do not violate state adoption laws or department regulations.

SEC. 22. Section 16146 is added to the Welfare and Institutions Code, to read:

16146. Notwithstanding any other provision of law, those licensed county adoption agencies currently providing intercountry adoption services and the State Department of Social Services shall continue to process those cases which are active on the effective date of this section and in which any of the following conditions apply:

(a) An approved home study has been transmitted to a foreign agency for child matching.

(b) The prospective adoptive parents have paid a fee for intercountry adoption services.

(c) The applicant has been accepted for family assessment and the assessment process started on or before the effective date of this section.

SEC. 23. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, regulations adopted by the State Department of Social Services within 120 days of the enactment of this act in order to implement the provisions of this act shall not be subject to review and approval of the Office of Administrative Law. The regulations shall not remain in effect more than 120 days unless the agency complies with all the provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 24. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to immediately resolve a critical problem in the intercountry adoptions program, which has caused a suspension of some intercountry placements, and a reluctance of out-of-state adoption agencies to work with California families, it is necessary that this act take effect immediately.

O